

Court of Appeals, State of Michigan

ORDER

Lashawn D Redmond v State Farm Mutual Auto Insurance Co

Kurtis T. Wilder
Presiding Judge

Docket No. 305337

Christopher M. Murray

LC No. 11-006483-AV

Karen M. Fort Hood
Judges

The Court orders that the motion for immediate consideration is GRANTED.

Pursuant to MCR 7.205(D)(2), in lieu of granting leave to appeal, the Court further orders that the July 5, 2011, order of the Wayne County Circuit Court and the underlying 36th District Court orders dismissing defendant's claims of appeal in the circuit court and denying defendant's motion to reinstate the appeal are REVERSED. MCR 7.101(G) clearly and unambiguously provides that the trial court may dismiss an appeal in the circuit court on 7 days' notice to the parties. Because there was a motion to waive bond filed in the district court, the district court should have issued an order granting or denying the motion and setting forth the conditions of a bond and the time frame by which defendant would have to file the bond. However, instead of doing so, the district court signed a form entitled "Bond on Appeal" on March 4, 2011, which did not indicate that defendant was required to post the surety bond within seven days. More importantly, the district court failed to send a separate notice that it intended to dismiss the appeals if the surety bond was not filed within seven days. Because the district court failed to provide seven days' notice as required under MCR 7.101(G), the circuit court should have reversed the district court's dismissals of the appeals.

The motion to waive the stay requirements of MCR 7.209(A)(3) is GRANTED.

In light of this Court's reversal, the motion for stay is DENIED AS MOOT. However, until defendant's appeals are resolved, plaintiffs shall not execute on the judgment or order awarding attorney fees, which includes the writ of garnishment served upon JP Morgan Chase bank.

The matter is REMANDED to the circuit court for entry of an order reinstating both claims of appeal, lower court numbers 10-011348-AV and 10-012108-AV. The circuit court shall proceed toward a resolution on the merits. This order is to have immediate effect, MCR 7.215(F)(2), and the Court retains no further jurisdiction.



A true copy entered and certified by Larry S. Royster, Chief Clerk, on

SEP 27 2011

Date


Chief Clerk